

FIRST REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 44
95TH GENERAL ASSEMBLY

Reported from the Committee on Jobs, Economic Development and Local Government, February 26, 2009, with recommendation that the Senate Committee Substitute do pass.

0438S.04C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 221.111, 221.353, 221.510, 575.210, 575.220, and 575.240, RSMo, and to enact in lieu thereof eight new sections relating to private jails, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 221.111, 221.353, 221.510, 575.210, 575.220, and 575.240, RSMo, are repealed and eight new sections enacted in lieu thereof, to be known as sections 221.095, 221.097, 221.111, 221.353, 221.510, 575.210, 575.220, and 575.240, to read as follows:

221.095. 1. For the purposes of this section, "private jail" shall mean a facility not owned or operated by the state, a county or a municipality that confines or detains prisoners who are awaiting trial, awaiting sentencing, or serving a sentence in a jail.

2. When any employee of a private jail or person assigned to work in a private jail has reasonable cause to believe that a prisoner in a private jail has been abused or that a state or federal law has been violated by any person in a private jail or on the premises of the private jail, he or she shall immediately, upon learning of the abuse or law violation, report the same in writing to the administrator of the private jail.

3. The written report shall contain the name and address of the private jail, the name of the prisoner or person who may have violated state or federal law, if applicable, information regarding the nature of the abuse or law violation, the name of the complainant, and any other

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

16 information which might be relevant in an investigation.

17 4. The administrator of the private jail shall immediately refer
18 all reports of abuse of a prisoner or reports of a violation of state or
19 federal law to the sheriff in the county in which the private jail is
20 located. The administrator and employees of the private jail shall
21 cooperate with law enforcement in the investigation of the facts alleged
22 in the report of abuse or violation of state or federal law.

23 5. In the event that a prisoner is missing, the private jail shall
24 take prompt and reasonable action to discover whether the prisoner
25 has escaped. Upon learning that an escape has occurred, the private
26 jail shall, if the escape occurred in any city of the third or fourth
27 classification, promptly notify the police department of the city, or, if
28 the escape occurred outside any city of the third or fourth
29 classification, shall promptly notify the sheriff's department of the
30 county in which the escape occurred. The private jail shall provide to
31 the law enforcement agencies all available information known about
32 the escape and the escapee.

33 6. It shall be an infraction, subject to a civil penalty of not less
34 than one hundred dollars nor more than one thousand dollars, for any
35 person described in subsection 2 of this section to willfully fail to make
36 a report required by subsection 2 of this section or for any person or
37 company operating a private jail to willfully fail to make a report
38 required by subsection 4 or 5 of this section. The action to recover
39 such penalty shall be a civil action brought by the county attorney in
40 the name of the county where the report was required to be made.

41 7. Any person who makes a report under this section or who
42 testifies in any administrative or judicial proceeding arising from the
43 report shall be immune from any civil or criminal liability for making
44 such a report or for testifying, except for liability for perjury, unless
45 such person acted with malice.

221.097. 1. Persons confined in private jails shall be separated
2 and confined according to gender. Persons confined under civil
3 process or for civil causes, except those persons confined awaiting a
4 determination on whether probation or parole will be revoked or
5 continued, shall be kept separate from persons confined awaiting trial
6 for criminal charges, awaiting sentencing for criminal charges,

7 awaiting determination on whether probation or parole will be revoked
8 or continued, or serving a sentence on a criminal investigation.

9 2. The administrator shall arrange for necessary health care
10 services for persons confined in the private jail.

11 3. The administrator shall ensure that persons confined in the
12 private jail have adequate clothing, food, and bedding. Deprivation of
13 adequate clothing, food, or bedding shall not be used as a disciplinary
14 action against any confined person.

15 4. No person confined in a private jail shall be used in any
16 manner for the profit, betterment, or personal gain of any employee of
17 the county or of any employee of the private jail.

18 5. Nothing in section 221.095 and this section, except for the
19 provisions of subsection 6 of section 221.095, shall create any new civil
20 cause of action under Missouri law nor shall it be interpreted so as to
21 conflict with the civil rights and constitutional rights of due process
22 accorded to any person in any investigation of a crime or potential
23 crime.

24 6. Any investigation of a report made under subsections 2 or 4 of
25 this section shall be concluded in a timely manner by law enforcement
26 and a written report of the conclusions shall be provided to the private
27 jail.

28 7. Nothing in section 221.095 and this section shall be construed
29 to grant to any law enforcement agency or officer any power to inspect,
30 control, or direct the operations of a private jail nor to make reports
31 or recommendations regarding the operations of a private jail.

221.111. 1. No person shall knowingly deliver, attempt to deliver, have
2 in such person's possession, deposit or conceal in or about the premises of any
3 county or private jail or other county correctional facility:

4 (1) Any controlled substance as that term is defined by law, except upon
5 the written prescription of a licensed physician, dentist, or veterinarian;

6 (2) Any other alkaloid of any kind or any spiritous or malt liquor;

7 (3) Any article or item of personal property which a prisoner is prohibited
8 by law or rule made pursuant to section 221.060 from receiving or possessing,
9 except as herein provided;

10 (4) Any gun, knife, weapon, or other article or item of personal property
11 that may be used in such manner as to endanger the safety or security of the
12 institution or as to endanger the life or limb of any prisoner or employee thereof.

13 2. The violation of subdivision (1) of subsection 1 of this section shall be
14 a class C felony; the violation of subdivision (2) of this section shall be a class D
15 felony; the violation of subdivision (3) of this section shall be a class A
16 misdemeanor; and the violation of subdivision (4) of this section shall be a class
17 B felony.

18 3. The chief operating officer of a county jail or other county correctional
19 facility **or the administrator of a private jail** may deny visitation privileges
20 to or refer to the county prosecuting attorney for prosecution any person who
21 knowingly delivers, attempts to deliver, has in such person's possession, deposits
22 or conceals in or about the premises of such jail or facility any personal item
23 which is prohibited by rule or regulation of such jail or facility. Such rules or
24 regulations, including a list of personal items allowed in the jail or facility, shall
25 be prominently posted for viewing both inside and outside such jail or facility in
26 an area accessible to any visitor, and shall be made available to any person
27 requesting such rule or regulation. Violation of this subsection shall be an
28 infraction if not covered by other statutes.

 221.353. 1. A person commits the crime of damage to jail property if such
2 person knowingly damages any city [or], county, **or private** jail building or other
3 jail property.

4 2. A person commits the crime of damage to jail property if such person
5 knowingly starts a fire in any city [or], county, **or private** jail building or other
6 jail property.

7 3. Damage to jail property is a class D felony.

 221.510. 1. Every chief law enforcement official, sheriff, jailer,
2 **administrator of a private jail**, department of corrections official and regional
3 jail district official shall conduct an inquiry of pending outstanding warrants for
4 misdemeanors and felonies through the Missouri Uniform Law Enforcement
5 System (MULES) and the National Crime Information Center (NCIC) System on
6 all prisoners about to be released, whether convicted of a crime or being held on
7 suspicion of charges.

8 2. No prisoner, whether convicted of a crime or being held on suspicion of
9 any charge, shall be released or transferred from a correctional facility or jail to
10 any other facility prior to having a local, state or federal warrant check conducted
11 by a law enforcement official, sheriff [or], authorized member of a correctional
12 facility or jail, **or administrator of a private jail**.

13 3. If any prisoner warrant check indicates outstanding charges or
14 outstanding warrants from another jurisdiction, it shall be the duty of the official
15 conducting the warrant check to inform the agency that issued the warrant that
16 the correctional facility or jail has such prisoner in custody. That prisoner shall
17 not be released except to the custody of the jurisdictional authority that had
18 issued the warrant, unless the warrant has been satisfied or dismissed, or unless
19 the warrant issuing agency has notified the correctional facility or jail holding the
20 prisoner that the agency does not wish the prisoner to be transferred or the
21 warrant to be pursued.

22 4. If any person has actual knowledge that a violation of this section is
23 occurring or has occurred, such person may report the information to the attorney
24 general of the state of Missouri, who may appoint a sheriff of another county to
25 investigate the report.

26 5. If a law enforcement official, sheriff [or], authorized member of a
27 correctional facility or jail, **or administrator of a private jail** purposely fails
28 to perform a warrant check with the intent to release a prisoner with outstanding
29 warrants and which results in the release of a prisoner with outstanding
30 warrants, that individual shall be guilty of a class A misdemeanor.

31 6. A law enforcement official, sheriff [or], authorized member of a
32 correctional facility or jail, **or administrator of a private jail** shall not be
33 deemed to have purposely failed to perform a warrant check with the intent to
34 release a prisoner in violation of this section, if he or she is unable to complete
35 the warrant check because the MULES or NCIC computer systems were not
36 accessible.

575.210. 1. A person commits the crime of escape or attempted escape
2 from confinement if, while being held in confinement after arrest for any crime,
3 while serving a sentence after conviction for any crime, or while at an
4 institutional treatment center operated by the department of corrections as a
5 condition of probation or parole, he escapes or attempts to escape from
6 confinement.

7 2. Escape or attempted escape from confinement in the department of
8 corrections is a class B felony.

9 3. Escape or attempted escape from confinement in a county or **private**
10 **jail or city or county** correctional facility is a class D felony except that it is:

11 (1) A class A felony if it is effected or attempted by means of a deadly
12 weapon or dangerous instrument or by holding any person as hostage;

13 (2) A class C felony if the escape or attempted escape is facilitated by
14 striking or beating any person.

575.220. 1. A person commits the crime of failure to return to
2 confinement if, while serving a sentence for any crime under a work-release
3 program, or while under sentence of any crime to serve a term of confinement
4 which is not continuous, or while serving any other type of sentence for any crime
5 wherein he is temporarily permitted to go at large without guard, he purposely
6 fails to return to confinement when he is required to do so.

7 2. This section does not apply to persons who are free on bond, bail or
8 recognizance, personal or otherwise, nor to persons who are on probation or
9 parole, temporary or otherwise.

10 3. Failure to return to confinement is a class C misdemeanor unless:

11 (1) The sentence being served is to the Missouri department of corrections
12 and human resources, in which case failure to return to confinement is a class D
13 felony; or

14 (2) The sentence being served is one of confinement in a county **or**
15 **private** jail on conviction of a felony, in which case failure to return to
16 confinement is a class A misdemeanor.

575.240. 1. A public servant, **contract employee of a county or**
2 **private jail, or employee of a private jail**, who is authorized and required
3 by law to have charge of any person charged with or convicted of any crime
4 commits the crime of permitting escape if he knowingly:

5 (1) Suffers, allows or permits any deadly weapon or dangerous
6 instrument, or anything adapted or designed for use in making an escape, to be
7 introduced into or allowed to remain in any place of confinement, in violation of
8 law, regulations or rules governing the operation of the place of confinement; or

9 (2) Suffers, allows or permits a person in custody or confinement to
10 escape.

11 2. Permitting escape by suffering, allowing or permitting any deadly
12 weapon or dangerous instrument to be introduced into a place of confinement is
13 a class B felony; otherwise, permitting escape is a class D felony.

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